

Pages 1 to / à 9
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23

of the Access to Information Act
de la Loi sur l'accès à l'information

From: "Breithaupt, Doug" <DBREITHA@JUSTICE.GC.CA>
To: "Wilkins, Keith" <KeWilkin@justice.gc.ca>, "Parent, Yves" <YParent@justice.gc.ca>, "Cohen, Stanley" <SCOHEN@JUSTICE.GC.CA>, "Slatkoff, Ari" <aslatkof@justice.gc.ca>, "Joseph, Adrian" <AJoseph@justice.gc.ca>, [REDACTED]
"Scrivens, Mark" <MScriven@justice.gc.ca>, "Dolhai, George" <George.Dolhai@ppsc-sppc.gc.ca>, "Ferguson, Allan" <aferguso@justice.gc.ca>, "Price, Brenda" <BrePrice@justice.gc.ca>, "Markham, Karen" <KMarkham@justice.gc.ca>, "Nguyen, Trang Dai" <TNguyen@JUSTICE.GC.CA>, "Colton, Loretta (RCMP)" <Loretta.colton@rcmp-grc.gc.ca>, "Desaulniers, Anouk" <ADesaulh@justice.gc.ca>, "Tracey, McCann" <Tracey.McCann@pco-bcp.gc.ca>, [REDACTED]
"Normand, Gerard" <gnormand@justice.gc.ca>, "Fernandes, Zuzana" <ZFernand@justice.gc.ca>, "Crosby, Adair" <ACROSBY@JUSTICE.GC.CA>, "Robertson, Helene" <HeRobert@justice.gc.ca>, "Pollard, Dorette" <DPollard@justice.gc.ca>, "Johnston, Debbie" <Debbie.Johnston@ppsc-sppc.gc.ca>, "Evans, Christine" <CHEvans@justice.gc.ca>, "Vaillancourt, Normand" <nvaillan@justice.gc.ca>, "Boutzouvis, Bill" <Bill.Boutzouvis@ppsc-sppc.gc.ca>, "Chapadeau, Remi (CSE)" <remi.chapadeau@cse-cst.gc.ca>, "Tait, Amanda" <Amanda.Tait@ps-sp.gc.ca>, "Berish, Tara K." <tkberish@justice.gc.ca>, "Allen, Kristine (CBSA)" <kristine.allen@cbsa-asfc.gc.ca>, "Brender, James" <James.Brender@ps-sp.gc.ca>
CC: "Goodwin, Cynthia (CBSA)" <Cynthia.Goodwin@cbsa-asfc.gc.ca>
Date: 1/21/2010 12:24 PM
Subject: [REDACTED]
Attachments: [REDACTED]

s.15(1)

s.21(1)(a)

Happy New Year!

[REDACTED]

Many thanks.

Doug

[REDACTED]

> Le présent message et toutes les pièces jointes qui l'accompagnent contiennent de l'information confidentielle ou protégée destinée uniquement à la personne ou à l'entité à laquelle elle est adressée. Toute diffusion, distribution, copie ou autre action concernant son contenu par une autre personne que son destinataire est strictement interdit. Si vous avez reçu ce message par erreur, veuillez m'en informer immédiatement à l'adresse ci-dessus et l'effacer. Merci.

>

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>

Pages 11 to / à 25
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21(1)(a)

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From: "Breithaupt, Doug" <DBREITHA@JUSTICE.GC.CA>
To: "Wilkins, Keith" <KeWilkin@justice.gc.ca>, "Parent, Yves" <YParent@justice.gc.ca>, "Cohen, Stanley" <SCOHEN@JUSTICE.GC.CA>, "Slatkoff, Ari" <aslatkof@justice.gc.ca>, "Joseph, Adrian" <AJoseph@justice.gc.ca>, [REDACTED]
s.15(1) [REDACTED] "Scrivens, Mark" <Mark.Scrivens@justice.gc.ca>, "Dolhai, George" <George.Dolhai@ppsc-sppc.gc.ca>, "Ferguson, Allan" <aferguso@justice.gc.ca>, "Price, Brenda" <BrePrice@justice.gc.ca>, "Markham, Karen" <KMarkham@justice.gc.ca>, "Nguyen, Trang Dai" <TNguyen@JUSTICE.GC.CA>, "Colton, Loretta (RCMP)" <Loretta.Colton@rcmp-grc.gc.ca>, "Desaulniers, Anouk" <ADesauln@justice.gc.ca>, "McCann, Tracey (PCO)" <tracey.mccann@pco-bcp.gc.ca>, "Normand, Gerard" <gnormand@justice.gc.ca>, "Fernandes, Zuzana" <ZFernand@justice.gc.ca>, "Crosby, Adair" <ACROSBY@JUSTICE.GC.CA>, "Pollard, Dorette" <DPollard@justice.gc.ca>, "Johnston, Debbie" <Debbie.Johnston@ppsc-sppc.gc.ca>, "Evans, Christine" <CHEvans@justice.gc.ca>, "Vaillancourt, Normand" <nvaillan@justice.gc.ca>, "Boutzouvis, Bill" <Bill.Boutzouvis@ppsc-sppc.gc.ca>, "Chapadeau, Remi (CSE)" <remi.chapadeau@cse-cst.gc.ca>, "Tait, Amanda" <Amanda.Tait@ps-sp.gc.ca>, "Berish, Tara K." <tkberish@justice.gc.ca>, "Allen, Kristine (CBSA)" <kristine.allen@cbsa-asfc.gc.ca>, "Brender, James" <James.Brender@ps-sp.gc.ca>, "Hendel, Ursula" <Ursula.Hendel@ppsc-sppc.gc.ca>, [REDACTED] Goodwin, Cynthia" <cygoodwi@justice.gc.ca>, "Koster, Greg" <GKoster@justice.gc.ca>, "Bellis, Judith" <JBELLIS@JUSTICE.GC.CA>, "Cadieux, Luc" <lcadieux@justice.gc.ca>
s.21(1)(a) Point-du-Jour, Marie Cléone <MCPdJour@justice.gc.ca>
CC:
Date: 2/23/2010 4:07 PM
Subject:
Attachments: [REDACTED]

REMINDER:

Many thanks.

Doug

> Le présent message et toutes les pièces jointes qui l'accompagnent contiennent de l'information confidentielle ou protégée destinée uniquement à la personne ou à l'entité à laquelle elle est adressée. Toute diffusion, distribution, copie ou autre action concernant son contenu par une autre personne que son destinataire est strictement interdit. Si vous avez reçu ce message par erreur, veuillez m'en informer immédiatement à l'adresse ci-dessus et l'effacer. Merci.

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21(1)(a)

**of the Access to Information Act
de la Loi sur l'accès à l'information**

From: "Breithaupt, Doug" <DBREITHA@JUSTICE.GC.CA>
To: lcadioux@justice.gc.ca; JBELLIS@JUSTICE.GC.CA; GKoster@justice.gc.ca; cygoo
dwi@justice.gc.ca; obriang@smtp.gc.ca; Ursula.Hendel@ppsc-sppc.gc.ca; . . . s.21(1)(a)
CC: MCPdJour@justice.gc.ca
Date: 2/23/2010 4:07 PM
Subject: [REDACTED]
Attachments: [REDACTED]

REMINDER:

Many thanks.

Doug

<<Section 38 document - February 23 2010 p.m..doc>> <<Operational Recommendations revised Feb
22 2010.doc>>

> Le présent message et toutes les pièces jointes qui l'accompagnent contiennent de l'information
confidentielle ou protégée destinée uniquement à la personne ou à l'entité à laquelle elle est adressée.
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>

>

Pages 47 to / à 65
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21(1)(a)

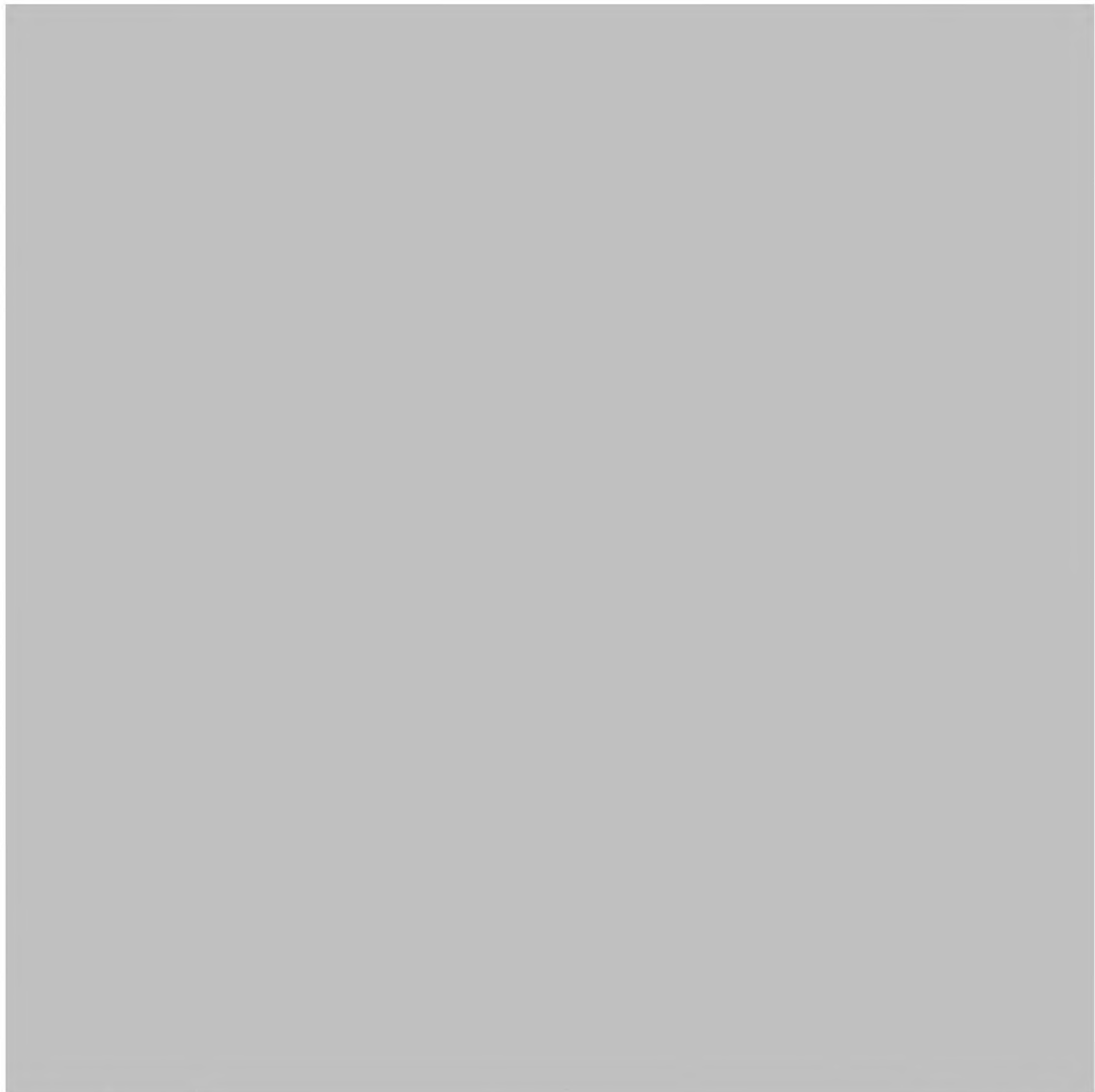
of the Access to Information Act
de la Loi sur l'accès à l'information



Secret
FOR INFORMATION

2010-015772


MEMORANDUM FOR THE DEPUTY MINISTER



**Pages 67 to / à 68
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21(1)(b), 23

**of the Access to Information Act
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PREPARED BY
Keith Wilkins
Senior Counsel
Policy Sector/Programs Branch
(613) 954-9424
October 27, 2010

s.21(1)(b)

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21(1)(b)

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23

**of the Access to Information Act
de la Loi sur l'accès à l'information**

Memo to: **Liliana Longo**
Senior General Counsel

cc. **Christian Roy**
A/Deputy Director

From: **Marianne Wright**
A/ General Counsel

Date: **1 February 2011**

s.23

Re:



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21(1)(a)

**of the Access to Information Act
de la Loi sur l'accès à l'information**

(01/11/2011) Marianne Wright

From: "Breithaupt, Doug" <DBREITHA@JUSTICE.GC.CA>
To: "Wilkins, Keith" <KeWilkin@justice.gc.ca>, "Cohen, Stanley"
<SCOHEN@JUSTICE.GC.CA>, "Slatkoff, Ari" <aslatkof@justice.gc.ca>, "Janice MULLETT"
<mullettj@smtp.gc.ca>, "Scrivens, Mark" <MScriven@justice.gc.ca>, "Ferguson, Allan"
<aferguso@justice.gc.ca>, "Price, Brenda" <BrePrice@justice.gc.ca>, "Markham, Karen"
<KMarkham@justice.gc.ca>, "Nguyen, Trang Dai" <TNguyen@JUSTICE.GC.CA>, "Desaulniers, Anouk"
<ADesauln@justice.gc.ca>, "Normand, Gerard" <gnormand@justice.gc.ca>, "Fernandes, Zuzana"
<ZFernand@justice.gc.ca>, "Crosby, Adair" <ACROSBY@JUSTICE.GC.CA>, "Pollard, Dorette"
<DPollard@justice.gc.ca>, "Johnston, Debbie" <Debbie.Johnston@ppsc-sppc.gc.ca>, "Evans, Christine"
<CHEvans@justice.gc.ca>, "Boutzouvis, Bill" <Bill.Boutzouvis@ppsc-sppc.gc.ca>, "Brender, James"
<James.Brender@ps-sp.gc.ca>, "Hendel, Ursula" <Ursula.Hendel@ppsc-sppc.gc.ca>, "Geoff O'Brian"
<obriang@smtp.gc.ca>, "Koster, Greg" <GKoster@justice.gc.ca>, "Bellis, Judith"
<JBELLIS@JUSTICE.GC.CA>, "Wright, Marianne (RCMP)" <Marianne.Wright@rcmp-grc.gc.ca>, "Blain,
Christopher" <Christopher.Blain@pco-bcp.gc.ca>, "Batt, Robert" <rbatt@justice.gc.ca>, Desjardins,
Josée <Jodesjar@justice.gc.ca>, "Nelligan, Christopher (CRA)" <Christopher.Nelligan@cbsa-
asfc.gc.ca>, "Yost, Greg" <GYost@justice.gc.ca>, "Shogilev, Matthew" <MShogile@justice.gc.ca>,
"Gilmour, Glenn" <ggilmour@justice.gc.ca>, Renaud, Josée-Anne <Joose-Anne.Renaud@ps-sp.gc.ca>
CC: Point-du-Jour, Marie Cléone <MCPdJour@justice.gc.ca>
Date: 4/8/2011 4:27 PM
Subject:
Attachments:

Further to my e-mail of March 14, 2011, this will be a reminder that there will be a working group meeting on Tuesday, April 12, 2011, from 9:30 a.m. to 11 a.m. in Room 6015-EMB. The agenda for the meeting is attached.

s.21(1)(b)

Many thanks.

Doug

> Le présent message et toutes les pièces jointes qui l'accompagnent contiennent de l'information confidentielle ou protégée destinée uniquement à la personne ou à l'entité à laquelle elle est adressée. Toute diffusion, distribution, copie ou autre action concernant son contenu par une autre personne que son destinataire est strictement interdit. Si vous avez reçu ce message par erreur, veuillez m'en informer immédiatement à l'adresse ci-dessus et l'effacer. Merci.

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de la Loi sur l'accès à l'information**

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**of the Access to Information Act
de la Loi sur l'accès à l'information**

From: "Wilkins, Keith" <KeWilkin@justice.gc.ca>
To: "Breithaupt, Doug" <DBREITHA@JUSTICE.GC.CA>, "Markham, Karen"
<KMarkham@justice.gc.ca>, "Irving, Nancy" <Nancy.Irving@ppsc-sppc.gc.ca>, "Scrivens, Mark"
<MScriven@justice.gc.ca>, "Wright, Marianne (RCMP)" <Marianne.Wright@rcmp-grc.gc.ca>, "Geoff
O'Brian" <obriang@smtp.gc.ca>, "Bolduc, Karine" <KBolduc@justice.gc.ca>, "Hendel, Ursula"
<Ursula.Hendel@ppsc-sppc.gc.ca>, "Batt, Robert" <rbatt@justice.gc.ca>

Date: 5/17/2011 9:11 AM

s.23

Subject:

Attachments:

Keith Wilkins
Senior Counsel | Avocat Conseil
Special Advocates Program | Programme des avocats spéciaux
Policy Implementation Directorate | Direction de la mise en oeuvre des politiques
Programs Branch, Policy Sector | Direction générale des programmes, Secteur des politiques
Department of Justice Canada | Ministère de la Justice Canada
284 Wellington Street, Room 6331 | 284 rue Wellington, pièce 6331
Ottawa (Ontario) K1A 0H8
telephone | téléphone: 613-954-9424
fax | télécopieur: 613-941-5446
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keith.wilkins@justice.gc.ca
Government of Canada | Gouvernement du Canada

Pages 151 to / à 159
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de la Loi sur l'accès à l'information

[REDACTED]

From: "Wilkins, Keith" <KeWilkin@justice.gc.ca>
To: "Batt, Robert" <rbatt@justice.gc.ca>, "Geoff O'Brian" <obriang@smtp.gc.ca>, "Scrivens, Mark" <MScriven@justice.gc.ca>, "Irving, Nancy" <Nancy.Irving@ppsc-sppc.gc.ca>, "Wright, Marianne (RCMP)" <Marianne.Wright@rcmp-grc.gc.ca>, "Markham, Karen" <KMarkham@justice.gc.ca>
Date: 5/27/2011 2:14 PM
Subject: [REDACTED]
Attachments: [REDACTED]

s.23

Good afternoon, [REDACTED]

I thank you [REDACTED]

Pages 161 to / à 163
are withheld pursuant to section
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of the Access to Information Act
de la Loi sur l'accès à l'information

(0/1/2011) Marianne Wright -

From: "Wilkins, Keith" <KeWilkin@justice.gc.ca>
To: "Breithaupt, Doug" <DBREITHA@JUSTICE.GC.CA>
CC: "Irving, Nancy" <Nancy.Irving@ppsc-sppc.gc.ca>, "Scrivens, Mark" <MScriven@justice.gc.ca>, "Batt, Robert" <rbatt@justice.gc.ca>, "Geoff O'Brian" <obriang@smtp.gc.ca>, "Wright, Marianne (RCMP)" <Marianne.Wright@rcmp-grc.gc.ca>, "Markham, Karen" <KMarkham@justice.gc.ca> s.21(1)(b)
Date: 6/1/2011 3:01 PM
Subject: [REDACTED]
Attachments: [REDACTED]

Keith Wilkins
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Special Advocates Program | Programme des avocats spéciaux
Policy Implementation Directorate | Direction de la mise en oeuvre des politiques
Programs Branch, Policy Sector | Direction générale des programmes, Secteur des politiques
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21(1)(a), 23

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21(1)(a)

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Unclassified

NSLAB NOTES – OCTOBER, 2011

ISSUE

- Summary of UK Justice and Security Green Paper (October 19, 2011).

BACKGROUND

- In 2010 the UK Government paid out approximately 20 million pounds to 16 terror suspects after they claimed mistreatment by British security and intelligence officials.
- The pay-out occurred largely because the Government was not prepared to further jeopardize the release of information that it deemed could damage national security and its relations with foreign governments, particularly the US.
- The Green Paper proposes to curtail the courts' powers to order the disclosure of sensitive information in civil proceedings; it does not address disclosure in criminal proceedings.
- The paper is a public consultation seeking ideas and recommendations in response to proposals and questions raised.
- The Government has imposed a deadline of January 6, 2012 for public submissions.

KEY POINTS

- There are three main thrusts to the green paper: enhancing procedural fairness, safeguarding material and reforming intelligence oversight.

Enhancing procedural fairness

- This proposal aims to maximize the amount of relevant material available for civil proceedings, while ensuring that sensitive material is protected.
- It also wants to make closed material procedures (CMPs) more widely available in civil proceedings when sensitive material is at stake.
- More training and support will be provided to Special Advocates (S.A.'s) who have a role in the closed proceedings. The proposal has not decided the best way of facilitating communication between individuals and their S.A.'s without jeopardising national security.
- The proposal seeks advice on whether an individual affected by a CMP might be provided a summary of some of the closed material.

Unclassified

- Another element of the plan is to provide judges with more case management powers in the pre-hearing phase; this has been likened to the inquisitorial proceedings employed in some other European jurisdictions.
- Another proposal under consideration is to establish a special court to hear civil proceedings where sensitive material is at play.

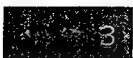
Safeguarding material

- The paper proposes to limit the role of the courts when individuals seek disclosure of sensitive material where the UK Government has a limited role, e.g., in a foreign legal proceeding.

Reform of intelligence oversight

- A key proposal here is to make the Intelligence and Security Committee (ISC) a statutory Committee of Parliament.
- It also proposes to give the ISC the power to compel information from the security and intelligence agencies.
- Another option outlined is to give greater power to the Intelligence Services Commissioner which provides a measure of independent oversight of the security and intelligence agencies.
- An Inspector-General has been proposed that would concentrate oversight functions in one body while ensuring that the remit of such a position would not overlap with the ISC.

Unclassified



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Brigitte Lefebvre - [REDACTED]

From: "Breithaupt, Doug" <DBREITHA@JUSTICE.GC.CA>
To: "Cohen, Stanley" <SCOHEN@JUSTICE.GC.CA>, "Slatkoff, Ari"
<aslatkof@justice.gc.ca>, "Janice MULLETT" <mullettj@smtp.gc.ca>, "Scrivens,
Mark" <MScriven@justice.gc.ca>, "Ferguson, Allan" <aferguso@justice.gc.ca>, "Price,
Brenda" <BrePrice@justice.gc.ca>, "Markham, Karen" <KMarkham@justice.gc.ca>,
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"Hendel, Ursula" <Ursula.Hendel@ppsc-sppc.gc.ca>, "Koster, Greg"
<GKoster@justice.gc.ca>, "Bellis, Judith" <JBELLIS@JUSTICE.GC.CA>, "Blain,
Christopher" <Christopher.Blain@pco-bcp.gc.ca>, "Batt, Robert"
<rbatt@justice.gc.ca>, Desjardins, Josée <Jodesjar@justice.gc.ca>, "Yost, Greg"
<GYost@justice.gc.ca>, "Shogilev, Matthew" <MShogile@justice.gc.ca>, "Gilmour,
Glenn" <ggilmour@justice.gc.ca>, Renaud, Josée-Anne <Josee-Anne.Renaud@ps-
sp.gc.ca>, <imondou@pco-bcp.gc.ca>, "Nelligan, Christopher (CRA)"
<Christopher.Nelligan@cbsa-asfc.gc.ca>, Berthiaume,
Adèle <ABerthia@JUSTICE.GC.CA>, "Sargent, Laurie" <LSargent@justice.gc.ca>,
"Chan, Judy (RCMP)" <judy.chan@rcmp-grc.gc.ca>, "Ketter, Arryn (RCMP)"
<arryn.ketter@rcmp-grc.gc.ca>, "Murphy, Ted" <TMurphy@justice.gc.ca>
Date: 2011-10-24 18:39
Subject: [REDACTED]
CC: Point-du-Jour, Marie Cléone <MCPdJour@justice.gc.ca>, "Wilkins, Keith"
<KeWilkin@justice.gc.ca>, "Kane, Catherine" <CKANE@justice.gc.ca>
Attachments: [REDACTED]

Many thanks.

s.21(1)(a)

Doug

Doug Breithaupt

Director and General Counsel

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21(1)(a)

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From: "Breithaupt, Doug" <DBREITHA@JUSTICE.GC.CA>
To: "Cohen, Stanley" <SCOHEN@JUSTICE.GC.CA>, "Slatkoff, Ari"
<aslatkof@justice.gc.ca>, "Janice MULLETT" <mullettj@smtp.gc.ca>, "Scrivens, Mark"
<MScriven@justice.gc.ca>, "Ferguson, Allan" <aferguso@justice.gc.ca>, "Price, Brenda"
<BrePrice@justice.gc.ca>, "Markham, Karen" <KMarkham@justice.gc.ca>, "Nguyen, Trang Dai"
<TNguyen@JUSTICE.GC.CA>, "Desaulniers, Anouk" <ADesauln@justice.gc.ca>, "Normand, Gerard"
<gnormand@justice.gc.ca>, "Fernandes, Zuzana" <ZFernand@justice.gc.ca>, "Crosby, Adair"
<ACROSBY@JUSTICE.GC.CA>, "Pollard, Dorette" <DPollard@justice.gc.ca>, "Evans, Christine"
<CHEvans@justice.gc.ca>, "Boutzouvis, Bill" <Bill.Boutzouvis@ppsc-sppc.gc.ca>, "Brender, James"
<James.Brender@ps-sp.gc.ca>, "Hendel, Ursula" <Ursula.Hendel@ppsc-sppc.gc.ca>, "Koster, Greg"
<GKoster@justice.gc.ca>, "Bellis, Judith" <JBELLIS@JUSTICE.GC.CA>, "Blain, Christopher"
<Christopher.Blain@pco-bcp.gc.ca>, "Batt, Robert" <rbatt@justice.gc.ca>, Desjardins,
Josée <Jodesjar@justice.gc.ca>, "Yost, Greg" <GYost@justice.gc.ca>, "Shogilev, Matthew"
<MShogilev@justice.gc.ca>, "Gilmour, Glenn" <ggilmour@justice.gc.ca>, Renaud, Josée-Anne <Josee-
Anne.Renaud@ps-sp.gc.ca>, <imondou@pco-bcp.gc.ca>, "Nelligan, Christopher (CRA)"
<Christopher.Nelligan@cbsa-asfc.gc.ca>, Berthiaume, Adèle <ABerthia@JUSTICE.GC.CA>, "Sargent,
Laurie" <LSargent@justice.gc.ca>, "Chan, Judy (RCMP)" <judy.chan@rcmp-grc.gc.ca>, "Ketter, Arryn
(RCMP)" <arryn.ketter@rcmp-grc.gc.ca>, "Murphy, Ted" <TMurphy@justice.gc.ca>
CC: Point-du-Jour, Marie Cléone <MCPdJour@justice.gc.ca>, "Wilkins, Keith"
<KeWilkin@justice.gc.ca>, "Kane, Catherine" <CKANE@justice.gc.ca>
Date: 2011-10-24 18:39
Subject:
Attachments:

Many thanks.

s.21(1)(a)

Doug

Doug Breithaupt
Director and General Counsel
Criminal Law Policy Section
Department of Justice
Rm. 5037, East Memorial Building
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Ottawa, Ontario K1A 0H8
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CSIS and RCMP: One Vision

An Operational Approach to Intelligence and Evidence

Introduction

The following is to assist CSIS and the RCMP to formalize the transition of intelligence into the criminal justice system.

It is recognized that the "intelligence to evidence" issue is complicated and evolving. It is subject to legislation and judicial precedent; it is informed by commissions of inquiry; it is affected by our respective policies and procedures; it is guided and assisted by training and mutual understanding.

The goal is to create a framework for cooperation - a framework which can be explained to and defended before the courts and which maintains and creates both an appropriate degree of separation and a functionally operational relationship between CSIS and the RCMP.

"It is my firm view that the distinction between policing and security intelligence should be restored, respected and preserved. I am convinced that Canadians will be best served if the RCMP and CSIS both operate within their distinct mandates and expertise, while sharing information when appropriate and working together in a cooperative and integrated manner".

(Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar - hereinafter referred to as the "O'Connor Commission" - Report of the Events Relating to Maher Arar, Analysis and Recommendations, pg. 312)

Principles

1. Public safety is paramount.

"Before I begin, however, I wish to draw attention to one pervasive feature of the RCMP's national security role: the Force's response to criminal threats to national security, like the government's response to national security threats in general, is continuously evolving".

(O'Connor Commission, 'A New Review Mechanism for the RCMP's National Security Activities, pg. 84)

"To be sure, terrorism is a crime unto itself. It has no equal. It does not stop at, nor is it limited to, the senseless destruction of people and property. It is far more insidious in that it attacks our very way of life and seeks to destroy the fundamental values to which we ascribe - values which form the essence of our constitutional democracy"

(Court of Appeal for Ontario, R.v. Khawaja, Dec. 17, 2010, paragraph 231)

2. Always consider the effect of your actions upon the other agency.

"When information from a CSIS operation seeps into a police investigation it will often have to be disclosed. In some cases that can lead to the termination of prosecutions or police investigations in order to protect intelligence sources. That is highly undesirable from a police perspective. On the other hand, should intelligence gathering methods or sources used by CSIS be compromised by disclosure, for example during the criminal process, this can be very harmful to the effectiveness of CSIS operations on an ongoing basis. Consequently, both organizations have a distinct interest in maintaining a degree of separation between their operations. Avoiding such problems is clearly in the public interest".

(Mr. Justice Dawson, Ruling No. 14, paragraph 33)

3. Earlier is better when discussing strategy, seeking legal advice, identifying problems and sharing information.

"At the risk of oversimplification, one of the main concerns is contaminating the police investigation with information gathered by CSIS pursuant to its separate mandate. When that occurs it creates problems for each organization in carrying out its respective role".

(Mr. Justice Dawson, Ruling No. 14, paragraph 31)

4. Focusing the information to be disclosed by CSIS will assist both organizations and avoid future problems.

"CSIS was giving limited information to the RCMP for the purpose of respecting the legislation under which it operates and to ensure that it maintained an appropriate degree of separation from the RCMP".

(Mr. Justice Dawson, Ruling No. 14, paragraph 65)

5. Every investigation is different; it is critical to have a consistent process which will recognize and manage these differences.

"However, it is imperative that a special effort be made by all personnel in each institution to develop a better understanding and appreciation of the mandate and role of the other... Secondments and joint training and information programs would be ways of promoting better understanding and cooperation".

(O'Connor Commission, 'Report of the Events Relating to Maher Arar, Analysis and Recommendations, pg. 319).

Foundational Criteria for National Security Criminal Investigations

The initiation of a criminal investigation must be based on a reasonable suspicion or belief that criminal activity has occurred or may occur. The following may initiate a disclosure from CSIS to the RCMP:

- a) information and intelligence (foundational to the initiation of an investigation) which may indicate criminal activity
- b) a pattern of behavior that may constitute a threat to the security of Canada
- c) an element of an offence under the Security Offences Act or any other act of Parliament
- d) an imminent threat

Assessment Process Prior to Disclosure Under Section 19 CSIS Act

CSIS receives information and intelligence.

CSIS makes an assessment which requires a consideration of:

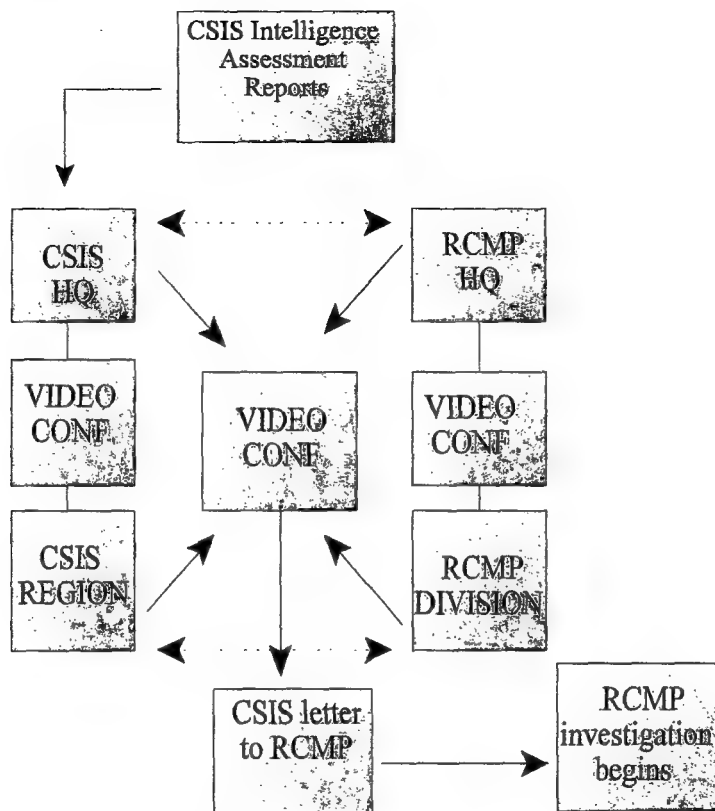
- a) the threat to the security of Canada
- b) the nature and seriousness of the potential criminal activity
- c) the impact that sharing the information may have on the Service's investigations (sources, methods and operations, including the management of third party information)
- d) the impact of judicial disclosure obligations on a CSIS investigation
- e) the merit and impact of involving other stakeholders (e.g. CBSA, CRA, foreign and domestic agencies)

It is recognized that, depending on the nature of the case, the RCMP will wish to be informed about the following information:

- a) the subject of the investigation ("who")
- b) the activity ("what")
- c) time frame ("when")
- d) location ("where")
- e) motivation, if known ("why")

Strategic Consultations

If deemed appropriate by CSIS, CSIS will contact the RCMP to initiate the consultative process. The process will consist of a meeting(s) between the RCMP and CSIS to assess the magnitude and scale of the information and intelligence based on the foundational criteria.



Disclosure Under Section 19, CSIS Act

Contingent upon the results of the foregoing consultation CSIS may initiate a disclosure process.

The RCMP will, upon receipt of the letter, disseminate as deemed appropriate.

As soon as practical, the RCMP will advise CSIS of what investigational avenue the RCMP will pursue, if any, based on the information and intelligence CSIS shared.

During the Criminal Investigation

Adherence to these guidelines will help ensure that the RCMP criminal investigation remains separate, distinct and parallel to any CSIS investigation.

It is recognized that there will be a continuing need for coordination and de-confliction between the two investigations that may lead to disclosure.

".... they understood the need to share certain information of fundamental importance while ensuring a careful separation between their investigations. The evidence indicated that care was taken to ensure that there was a form of "firewall" between the two organizations, through which only certain limited information would be permitted to pass.Mr. Brooks and Inspector Jagoe understood that certain information would only be used by Inspector Jagoe for strategic purposes, such as the allocation of resources".

(Mr. Justice Dawson, Ruling No. 14, paragraph 41)

There is a continuing requirement for CSIS to report to government on threat-related activities and the RCMP can assist in that regard.

"The evidence reveals that there was a much larger flow of information from the RCMP to CSIS than the other way around ...CSIS came to rely on the RCMP providing information from the Osage investigation to satisfy aspects of CSIS's mandate. The evidence is quite clear, however, that the information flow from CSIS to the RCMP was very limited and carefully controlled".

(Mr. Justice Dawson, Ruling No. 14, paragraph 43)

Ongoing inter-agency dialogue within the Existing Deconfliction Process (Executive Liaison Group) may be appropriate to ensure public safety concerns are met and

all options
are
explored.

"The evidence established that the JMT's involved other agencies and police forces as well, and I am satisfied that the exchange of information was restricted to ensuring awareness of each other's general operations and projects for management purposes. .. The evidence did not reveal that such meetings were used to pass detailed information that might be regarded as fruits of the investigations".

(Mr. Justice Dawson, Ruling No. 14, paragraph 40)

CSIS, when conducting a parallel investigation, may disclose additional information and/or intelligence consistent with the principles outlined in this document.

The RCMP will provide CSIS with information and/or intelligence.

"While CSIS faces potentially adverse consequences as a result of sharing information with the police, there are no similar consequences for other agencies that share information with CSIS. There is no excuse for any agency failing to share information with CSIS. Security-related threat information collected by the RCMP for law enforcement purposes can, and ought to be, shared with CSIS in all but the rarest of circumstances. The Commission does not view the report or recommendations of the O'Connor Commission as being in any way inconsistent with this observation".

(Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182 - hereinafter referred to as the Air India Commission - Volume One, The Overview, pg. 167)

In accordance with policy, CSIS and the RCMP will ensure the retention of information, intelligence and evidence.

Post Investigation / Pre-trial Disclosure (Stinchcombe)

The responsibility for disclosure belongs to the Crown.

Ongoing inter-agency consultation to ensure the appropriate use of sensitive national security information and its protection as required.

Implementation



s.21(1)(a)

s.21(1)(b)

RCMP

Policy/Manual

Training (National and regional)

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**of the Access to Information Act
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From: Judy Chan
To: Bonnell, Peter; Drodge, Edward; O'Connell, Harold
CC: Ketter, Arryn s.23
Date: 2011-10-28 15:20
Subject: Fwd: [REDACTED]
Attachments: Fwd: [REDACTED]

Hello [REDACTED]

Thanks very much.
Judy

Judy Chan
Senior Counsel/Avocate-conseil
RCMP Legal Services/
Services juridiques- GRC

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tel: 613-843-4475
fax: 613-825-1241
judy.chan@rcmp-grc.gc.ca

From: Arryn Ketter
To: Bonnell, Peter; Drodge, Edward; O'Connell, Harold
CC: Chan, Judy
Date: 2011-10-25 16:51
Subject: Fwd:
Attachments:

Printed

Printed

I'm away until the 8th, but Judy will be in the office.

s.23

Best,
Arryn

>>> "Breithaupt, Doug" <DBREITHA@JUSTICE.GC.CA> 2011-10-24 18:38 >>>

Many thanks.

Doug

Doug Breithaupt
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s.23

From: Judy Chan
To: O'Connell, Harold
CC: Ketter, Arryn
Date: 2011-11-07 16:38
Subject: Re: Fwd: [REDACTED]
Attachments: [REDACTED]

Hi Harold,
[REDACTED]

Thanks
Judy

>>> Harold O'Connell Sunday, October 30, 2011 9:31 AM >>>
Gilles is back in Tuesday and I will further discuss with him.
Thanks

>>> Judy Chan 10/28/2011 3:20 PM >>>
Hello,
[REDACTED]

Thanks very much.
Judy

Judy Chan
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Judy Chan - [REDACTED]

From: Edward Drodge
To: Chan, Judy
Date: Tuesday, November 08, 2011 10:36
Subject: [REDACTED]
CC: O'Connell, Harold
Attachments: [REDACTED]

s.23

Here is the short document that Supt. O'Connell asked me to forward to you.

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Department of Justice
Canada

Ministère de la Justice
Canada


284 Wellington Street
EMB 3195
Ottawa, ON
K1A 0H8


MEMORANDUM / NOTE DE SERVICE

Security classification – Côte de sécurité
PROTECTED B/Solicitor Client Privilege
File number – Numéro de dossier 31240-4-8 – 13.02.018a
Date February 19, 2013
Telephone / FAX – Téléphone / Télécopieur (613) 941-9407 / (613) 941-1937

TO / DEST: Carole Morency, A/Director General, CLPS

FROM / ORIG: Kay Young, General Counsel
Constitutional, Administrative and International Law Section

VIA:  Laurie Wright, Director General
Constitutional, Administrative and International Law Section

SUBJECT / OBJET: 

Comments/Remarques

s.23

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- 15 -



K. Young

s.23

Kay Young
General Counsel

cc: Laurie Sargent, HRLS
Patrick Xavier, Judicial Affairs

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**of the Access to Information Act
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Judy Chan - [REDACTED]

From: "Breithaupt, Doug" <Doug.Breithaupt@justice.gc.ca>
To: "Normand, Gerard (DND)" <gerard.normand2@forces.gc.ca>, "McNairn, David(...
Date: Friday, May 24, 2013 4:13 PM
Subject: [REDACTED]
CC: Point-du-Jour, Marie Cleone<MarieCleone.Point-du-Jour@justice.gc.ca>, "L...
Attachments: [REDACTED]

[REDACTED]

Thanks.

Doug

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TUES

MAY 28

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21(1)(a), 21(1)(b)

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Judy Chan - [REDACTED]

From: "Breithaupt, Doug" <Doug.Breithaupt@justice.gc.ca>
To: 'Edward Drodge' <Edward.Drodge@rcmp-grc.gc.ca>, 'Peter Bonnell' <Peter.B...
Date: Friday, February 14, 2014 2:30 PM
Subject: [REDACTED]
CC: "Wilkins, Keith" <Keith.Wilkins@justice.gc.ca>, "Koster, Greg" <Greg.Kos...
Attachments: [REDACTED]

PROTECTED

[REDACTED]

Thanks. s.21(1)(a)
s.23

Doug

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21(1)(a), 23

**of the Access to Information Act
de la Loi sur l'accès à l'information**

Page 600

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19(1), 21(1)(a), 23

**of the Access to Information Act
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15(1), 21(1)(a), 23

**of the Access to Information Act
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21(1)(a), 21(1)(b), 23

**of the Access to Information Act
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23

**of the Access to Information Act
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21(1)(a)

**of the Access to Information Act
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21(1)(a), 21(1)(b)

**of the Access to Information Act
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21(1)(a)

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de la Loi sur l'accès à l'information**